

As CIA Director, Bush Sought to Restrict Probe of Agency Officials by Justice Dept.

By JIM MANN, Times Staff Writer

ANN ARBOR, Mich.—While he was director of the CIA, Vice President George Bush secretly battled with the Justice Department and White House officials in an effort to restrict a federal criminal investigation of senior CIA officials, according to newly released files in the Gerald R. Ford presidential library.

The new materials show that in October, 1976, citing the need to protect intelligence sources, Bush repeatedly sought to prevent some documents from being declassified and CIA witnesses from being called before a federal grand jury. The grand jury was investigating charges that officials working for or with the CIA, including former CIA Director Richard M. Helms, had lied under oath to Congress about CIA operations in Chile.

No Written Directive

When White House officials reminded Bush that President Ford had already given a public pledge that his Administration would not use the classification process or take any other action to prevent the exposure of illegal activities, Bush still balked, saying that he had not personally received any written directive from the President spelling out this policy.

"An impasse exists between the Justice Department and Director George Bush of the CIA . . ." White House counsel Philip W. Buchen wrote to President Ford. Buchen told the President that failure of the Justice Department to obtain the information in dispute "would abort the pending investigation and lead to no prosecution . . ."

In a memo at the time to another White House official, Bush said, "There is no intention on my part or on the part of this agency to take any action that might reasonably be construed as an effort to thwart or frustrate the investigation being conducted by the [Justice] Department.

"At the same time, I mean to do whatever is necessary and appropriate to carry out my statutory mandate to protect intelligence sources and methods, believing as I do that such protection is at the heart of the Agency's ability to function effectively," he said.

President Ford supported the Justice Department and his White House aides and instructed Bush to let federal prosecutors have what they needed. The Justice Department investigation eventually resulted in Helms' 1977 plea of no contest to two criminal charges of failing to testify "fully, completely and accurately" to Congress.

In addition to running contrary to the Ford Administration's stated policy, Bush's efforts contrasted sharply with those of his immediate predecessor at the CIA, former Director William E. Colby. It was Colby who first referred to the Justice Department the allegations of false testimony by CIA officials, thus leading to the criminal prosecution that Bush was seeking to restrict.

Supports Poindexter

The new information about Bush is contained in more than 60 boxes of files kept by Buchen while serving in the Ford White House. Professional archivists at the Ford Library, who have been gradually processing files from the Ford Administration for public release, opened the collection of Buchen files on Sept. 8. A Times reporter found them in the course of other research.

When asked for comment, Craig Fuller, Bush's chief of staff, said through a spokeswoman that the vice president's office first heard of the Buchen files when questions were raised by The Times on Thursday. He said he would withhold comment until seeing the documents. Stephen Hart, a spokesman for the vice president in Washington, also refused to comment.

Bush's defense of clandestine operatives facing criminal charges has a modern echo. During his current campaign for the White House, Bush has expressed strong support for former national security adviser John M. Poindexter and former Lt. Col. Oliver L. North, who face federal criminal charges stemming from the secret sale of arms to Iran and the diversion of profits from these sales to the Nicaraguan Contras. The vice president has said he hopes that the two men will be acquitted.

The Washington Post _____
 The New York Times _____
 The Washington Times _____
 The Wall Street Journal _____
 The Christian Science Monitor _____
 New York Daily News _____
 USA Today _____

The Chicago Tribune _____
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The 1976 dispute between Bush and the Justice Department concerned allegations that CIA officials, including Helms, had given false testimony under oath to the Senate Foreign Relations Committee and later to a special commission, headed by then-Vice President Nelson A. Rockefeller, that was investigating improper activities by the CIA.

The testimony in question concerned CIA operations in Chile during and after the 1970 election of Salvador Allende, a Marxist, as president of that country. It also concerned CIA connections with International Telephone & Telegraph Co., which had substantial holdings in Chile.

In early 1973, when asked at Senate hearings whether the CIA had sought to have money passed to opponents of Allende, Helms testified without qualification, "No, sir." In addition, ITT executives denied working with the CIA against Allende. In 1975, the Senate Select Committee on Intelligence found that the CIA had funneled more than \$800,000 to opponents of Allende, who died during a coup in September, 1973.

The Justice Department investigation was supervised by then-Atty. Gen. Edward H. Levi and by the head of the Justice Department's criminal division, Dick Thornburgh, who is now President Reagan's attorney general. Thornburgh is now a strong supporter of Bush and has left the door open for the possibility that he will stay on as attorney general if Bush is elected to the White House.

In the late spring and early summer of 1976, Thornburgh and Levi wrote to the White House to get a series of White House files and archives concerning CIA activities in Chile for use in the Justice Department investigation.

Wrote Memo to Ford

But the inquiry apparently stalled because of resistance from Bush. According to the newly re-

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leased Buchen files, on Oct. 22, 1976, Buchen wrote a memo to President Ford entitled "Differences Between the CIA and the Department of Justice."

"Throughout the various investigations of alleged abuses by the CIA and other intelligence agencies, you have taken the position that evidence of offenses against the statutes of the United States should be submitted to the Department of Justice," the memo began.

However, Buchen went on, despite a series of negotiations, the Justice Department had reached an impasse with Bush "over the calling of certain witnesses and use in evidence of documents that reveal their identification and CIA connections for the purposes of a grand jury investigation and possible trial of cases involving alleged perjury"

According to Buchen, the CIA said it was concerned about 17 present or former employees and two other sources who had supplied information about Chile to the CIA. According to a separate memo in the files, written by Bush, the two CIA sources in question were ITT employees.

The Justice Department had already agreed that, at least for purposes of a grand jury investigation, it could limit itself to eight of those persons. It had also agreed to avoid disclosing the location and title of one of the persons and to call another individual before the grand jury under an alias.

The issue now to be resolved is whether the requirements of the Department of Justice, as reduced to the eight persons still in question, are to be respected by George Bush," said Buchen, who was the White House staff member responsible for intelligence matters.

Bush Memo in Files

Nine days earlier, Bush had written a memo to another official in the Ford White House, John O. Marsh. In that memo, also contained in the library files, Bush spoke of the "protracted investigation" by the Justice Department into Helms and the CIA testimony on Chile.

Bush indicated that the CIA was willing to declassify most of the documents wanted by the Justice Department and to allow most of the witnesses sought by the Justice Department to appear before a grand jury or even a public trial.

But Bush wrote that there were some present or former employees being identified as potential witnesses who had been working under cover, "with the result that their public identification with CIA could compromise operations in which they have been involved" Similarly, he said, some classified documents identified sources who had been promised confidentiality by the CIA.

However, Buchen said he disagreed with Bush's arguments. He reminded Ford that, on several occasions, he had served notice that all potential evidence of wrongdoing, by the CIA or any other officials, would be turned over to the Justice Department.

For example, in a 1975 speech, Ford had said, "I can assure you . . . that under no circumstances will there be any action by me or people working with me to use the classification process to prevent the exposure of alleged or actual criminal activity by any federal authority."

Buchen cited this promise in his memo and said: "I strongly recommend that you authorize me to advise George Bush that your policy as it should guide his actions is the same as you stated it to be"

Bush Told Ford Policy

Buchen also questioned contentions that national security would be damaged by the criminal prosecution. He noted that, in this particular case, information about the CIA's sources was already known.

Furthermore, Buchen said, "Failure to permit disclosure of the requested information would abort the pending investigation and lead to no prosecution, with the consequences that otherwise prosecutable persons will be saved from prosecution merely to protect their identities and CIA connections from disclosure.

"Such an outcome would be interpreted . . . as setting a precedent for never investigating or prosecuting a confidential source of information even though he may have committed perjury"

According to the files, Ford approved Buchen's recommendation. On Oct. 25, 1976, the White House counsel wrote to Bush, telling him that the President's policy was what he had already publicly announced and that evidence concerning criminal acts should be turned over to the Justice Department. Subsequently, the investigation proceeded, leading to Helms' plea bargain during the Jimmy Carter Administration.

The Ford Library files contain other details about Bush's service as CIA director, a part of Bush's career about which little information has come to light:

—Bush was appointed CIA director in November, 1975, after a five-month search in which the leading candidates were originally then-Solicitor General Robert H. Bork and Supreme Court Justice Byron R. White.

Filling the CIA job eventually became part of a general Ford Administration shake-up. Bush's appointment was such a hurried, last-minute affair that a White House official prepared a typed draft of a cable to Bush in China that said, "Congratulations on your selection by the President as Secretary of Commerce." The words "Secretary of Commerce" were crossed out and the words "Director of the Central Intelligence Agency" were written in.

When Ford took office after Richard M. Nixon's resignation in 1974, Bush was chairman of the Republican National Committee. Ford soon named Bush as head of the U.S. liaison office in China.

On July 10, 1975, Donald Rumsfeld, an assistant to the President, sent Ford a short and a longer list of possible candidates for CIA director. The short list contained 15 names, the longer list 64 names.

Bush was on the short list. However, Rumsfeld indicated that he had sounded out a number of people about the candidates and

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then gave Ford a "recommended list" of seven top names. Bork was at the top of this list, followed by Justice White. Bush was not on the recommended list.

A "confidential" description of the candidates attached by Rumsfeld listed Bush's advantages: "Experience in government and diplomacy; generally familiar with components of the intelligence community and their missions; management experience; high integrity and proven adaptability."

Rumsfeld's memo did not explain how or why Bush was considered generally familiar with the intelligence community. Bush's previous jobs in the executive branch had been as the U.S. envoy to China and as U.S. ambassador to the United Nations.

But Rumsfeld's confidential memo listed one major disadvantage: Bush's previous job as head of the Republican National Committee "lends undesirable political cast," the memo said. Before Bush's appointment, no politician had ever headed the CIA.